



# UPDATE



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*U.S. Attorney General Eric Holder addresses Committee supporters at 2009 Branton Awards Luncheon.*

## Attorney General Eric Holder Keynotes Committee's 2009 Branton Awards Luncheon

On June 16, U.S. Attorney General Eric Holder addressed an overflow crowd of more than 1,000 Committee supporters at the Washington Lawyers' Committee's 2009 Wiley A. Branton Awards Luncheon at the J.W. Marriott Hotel in Washington.

Attendees at the annual event, which honors attorneys, clients and civil rights leaders for their contributions to the cause of equal rights, included representatives from more than 59 supporting law firms and corporations.

"I am honored to join with the Washington Lawyers' Committee in paying well-earned tribute to some of this area's most dedicated lawyers and public servants – men and women who have given so much to the cause of equal rights for all Americans," said Attorney General Holder. His remarks called for stronger hate crimes legislation and vigorous enforcement of civil rights and anti-discrimination laws.

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## Major Mobilization Needed for Parole Representation

The Committee's D.C. Prisoners' Project has undertaken a massive effort to mobilize the Washington legal community to provide representation for more than 500 prisoners over the next four months in parole hearings held in federal prisons across the country. The Project is looking for more than 100 lawyers over the coming months to help insure that D.C. prisoners held in the federal system receive fair consideration for parole after years of illegal parole denials and over-incarceration.

In May 2008, the U.S. District Court for the District of Columbia issued a watershed decision in the case of *Sellmon v. Reilly* (551 F. Supp. 2d 66 (D.D.C. 2008)), ruling that members of the U.S. Parole Commission (USPC) violated the Ex Post Facto Clause of the U.S. Constitution. Since taking over the role of the old D.C. Board of Parole in 1998, the USPC has consistently applied its own parole regulations and practices to D.C. prisoners, rather than the regulations and practices of the former D.C. Board of Parole. This is the basis for the Court's finding of constitutional violations.

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**Roderic V.O. Boggs**  
Executive Director  
Washington Lawyers' Committee  
for Civil Rights & Urban Affairs

This issue of the Committee's **UPDATE** newsletter highlights the awards presented at this year's Wiley Branton Luncheon and the appearance of U.S. Attorney General Eric Holder. This is quite appropriate because the remarks made on this occasion by our honorees and special guest were indeed memorable and particularly inspiring.

Of special note were the videotaped words of Congressman John Lewis, one of two Branton Awardees. In recalling the difficult days of the early civil rights movement and the heroic work of Wiley Branton, Cong. Lewis challenged our audience to complete the mission that Wiley Branton did so much to advance. The Committee is very grateful for the opportunity to recognize Cong. Lewis as a true champion of equal rights.

Likewise, we are delighted to have been able to acknowledge the outstanding contributions of our second Branton Award winner, former Committee Co-Chair and current Board Member, Ben Wilson. His exceptional work as a Committee volunteer on a succession of challenging cases and his distinguished Board leadership have greatly furthered the ideals so nobly espoused by Wiley Branton and Cong. Lewis.

The same may be said for James Gibson and Monsignor Ralph Kuehner, this year's recipients of the Committee's Alfred McKenzie Award. The Committee is exceedingly fortunate to have had the opportunity to work closely with them for many years as they provided critical leadership for the Equal Rights Center and its predecessor organizations. The results of their work are evident in important victories in fair housing cases recounted in this issue of the **UPDATE**. The far-reaching settlements recently achieved in major design and construction cases will open thousands of housing units to people with disabilities. Similarly, settlements recently recorded in our source of income cases will assure that thousands of individuals holding Section 8 housing choice vouchers will have access to housing otherwise denied to them.

As a final point, I want to express the Committee's thanks and appreciation to Attorney General Eric Holder for his contribution to this year's Branton Luncheon. By calling attention to the importance of cooperative civil rights enforcement efforts linking public and private agencies, the Attorney General endorsed a theme that has always been fundamental to the Committee. We look forward with great anticipation and enthusiasm to working with the U.S. Department of Justice and other federal civil rights enforcement agencies in the months and years ahead. In doing so, we will look to the private bar of our community for the vital resources that have contributed so much to our past success.

### Committee Governance and Development

The Committee today operates with a staff of approximately 25, including five project directors and four staff attorneys. They are supported by several senior lawyers and visiting associates from cooperating firms. In addition, the Committee regularly benefits from the services of a number of junior attorneys holding fellowships from local and national law firms and nonprofit organizations.

The Committee is governed by a 55-member Board of Directors, and supported by a 90-member Board of Trustees and a team of Firm Representatives drawn from nearly 100 participating law firms.

The Committee's operating budget for 2009 is approximately \$3.7 million. Funding for this budget comes from a combination of law firm and individual giving, foundation grants, and the proceeds from the annual Wiley A. Branton Awards Luncheon, as well as attorney's fees and gifts of fees received in Committee litigation.

As the Committee begins its year-end funding cycle and announces its new funding campaign, it will be making a special effort to secure increased funding through a year-end appeal to law firm partners and associates.

Individuals and firms interested in providing support for the Committee and participating in its fundraising efforts should contact Da'aga Hill Bowman, Director of Foundation Outreach and Public Information at (202) 319-1000, ext. 155. Contributions to the Committee may also be made online at [www.washlaw.org/secure.htm](http://www.washlaw.org/secure.htm).

## History of the Washington Lawyers' Committee

From its inception in 1968, the Washington Lawyers' Committee has seen its basic mission as mobilizing the resources of the private bar to address issues of discrimination and poverty in our community. The primary motivating force behind the creation of the Committee and its counterparts in other cities was the publication of the Report of the National Advisory Commission on Civil Disorders, which identified discrimination and poverty as the root causes of the riots that erupted in cities around the nation during the late 1960's and in Washington, D.C. in April 1968 following the assassination of Dr. Martin Luther King, Jr.

Over the past 40 years, the Washington Lawyers' Committee has expanded from a small staff addressing a limited number of matters into a larger organization operating multiple projects that address a broad range of civil rights and poverty issues.

### Equal Employment Opportunity Project

The Committee's first program—the Equal Employment Opportunity Project—was established in 1971, when the Washington area was beginning the construction of its Metro system and Congress was about to enact major new legislation providing federal, state and local workers with their first meaningful protections against employment discrimination. With a coalition of community organizations, the Committee initiated an extensive litigation campaign challenging denials of training and job referrals by unions and contractors throughout the region. In addition, the Committee filed major lawsuits seeking enforcement of affirmative action plans covering federal

and local government construction projects. Committee cases, co-counseled by over a dozen area law firms, won precedent-setting victories against many of the region's largest unions and contractors, opening significant employment opportunities for thousands of African-American workers.

During this period, the Committee began a special outreach campaign directed at minority and women federal employees. Working with employee task forces at scores of agencies, the Committee provided representation in dozens of major cases winning many of the first judgments upholding the claims of federal workers under the newly enacted provisions of the 1972 Civil Rights Act. The Committee has built on this early record to bring class actions affecting over 25 federal agencies, and dozens of private sector defendants, securing millions of dollars of back pay and damages, and injunctive relief for thousands of workers.

The Committee takes special pride in its role in winning landmark appellate rulings upholding the use of paired testers to investigate denials of equal employment. The Committee's success in these cases brought on behalf of the Fair Employment Council of Greater Washington paved the way for the use of tester-generated evidence in a number of other jurisdictions. In 1999, the Fair Employment Council merged with the Fair Housing Council of Greater Washington to become the Equal Rights Center.

### Fair Housing Project

In the mid-1970's, the Committee established its Fair Housing Litigation Project to address denials of equal housing opportu-

nity. Shortly thereafter, it worked with a coalition of local clergy to create the Fair Housing Council of Greater Washington. For the past 20 years, the Committee has represented the Council and over 100 individuals in cases that established a national standard for effective advocacy and secured monetary and injunctive relief for victims of housing discrimination. The Committee worked with the Fair Housing Council in the groundbreaking utilization of paired testers to investigate allegations of discrimination. In 1999, the Fair Housing Council and the Fair Employment Council merged to become the Equal Rights Center. Recently, the Project has undertaken initiatives to assure accessible housing for persons with disabilities and to address source of income discrimination against tenants who use housing choice (formerly Section 8) vouchers.

### Public Education Projects

In 1978, the Committee established a program to assist parents seeking to improve the quality of public education in the District of Columbia, with over a dozen law firms offering general counsel assistance to parent groups at local schools in the Anacostia section of the city. Two years later, these parents and the Committee created Parents United for the D.C. Public Schools, the city-wide advocacy group seeking educational reform in the city.

In support of Parents United, the Committee and volunteers from area law firms have prepared dozens of policy papers on major educational issues and successfully litigated landmark cases affirming

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## History of the Washington Lawyers' Committee (continued from page 3)

the rights of public school students and their parents. Victories include a case mandating enforcement of the D.C. Fire Code, which assured millions of dollars for basic school building repairs and renovation, and a decision requiring basic nursing services at schools in the city and medical staffing at interscholastic athletic events. Since 1977, the Project has also administered an educational partnership program that links area firms with D.C. schools, providing tutoring, mentoring, and other enrichment services to more than 10,000 D.C. public school children.

### Immigrant & Refugee Rights Project

In 1978, the Committee initiated a project to address the legal service needs of immigrants and refugees that was the first such program in the D.C. area. Over the years, the Committee's Immigrant and Refugee Rights Project has received support from over 1,000 volunteers on matters of political asylum, challenges to restrictive immigration laws, as well as the preparation of comprehensive policy papers on legal issues affecting the Latino community. The Project also devoted increasing resources to assisting newcomers facing denials of basic civil rights due to their national origin. As part of this effort, the Committee has filed a number of cases challenging denials in employment and housing, and has assisted groups and individuals targeted for abuse following the September 11, 2001 terrorist attacks. Since 2006, the Project has also addressed concerns of day laborers in the District of Columbia and surrounding jurisdictions.

### Public Accommodations Project

Since 1988, beginning with a case against Holiday Spas Health Clubs, the Committee has played a leading role in national cases challenging widespread denials of service to persons of color at major hotel and restaurant chains, including Denny's, Waffle House, and Adams Mark Hotels. Several years ago, the Committee achieved a major settlement in such a case against a large Avis-Rent-a-Car franchise in South Carolina. Most recently, this project has represented the NAACP in a series of lawsuits challenging denials of civil rights affecting African Americans attending a large holiday rally in Myrtle Beach, South Carolina.

### Disability Rights Project

In 1991, the Committee began a program to assist individuals seeking to enforce their rights under the Americans with Disabilities Act of 1990. Working closely with the Disability Rights Council of Greater Washington, the Committee won a series of important victories opening access to hospitals, voting, and public transportation, as well as movie theater chains, banks, restaurants, grocery stores, and other retail establishments. In addition, the Committee has assured 911 phone access for the deaf community and interpreter services for deaf individuals dealing with the local courts and police. In 2005, the Disability Rights Council merged with the Equal Rights Center.

### D.C. Prisoners' Project

In 2006, the D.C. Prisoners' Legal Services Project, the foremost private prisoners' rights legal advocacy group in the District of Columbia, joined the Committee

to become the Committee's D.C. Prisoners' Project. The Project advocates on behalf of the more than 3,000 prisoners held in D.C. jail facilities as well as nearly 8,500 individuals incarcerated under D.C. law at Federal Bureau of Prisons facilities nationwide. The Project's work, which complements the Committee's prior work on prisoners' rights and prison reform issues, utilizes advocacy, litigation, education, outreach, and policy reform to address systemic failures in the prison and parole systems.

### Special Projects

The Committee has over the years handled significant matters on an ad hoc basis and special projects for limited periods of time. Perhaps the most noteworthy individual case—*Runyan v. McCrary*—was a successful challenge in the United States Supreme Court under Sec. 1981 of the 1866 Civil Rights Act to the racially discriminatory admissions policies of a Virginia nursery school. Special Committee projects over the years have focused on securing meaningful treatment for narcotics addicts, providing quality child care for low-income parents, representing African-American servicemen in challenges to their less than honorable military discharges, and providing supplemental instruction to hundreds of minority students about to enter area law schools.

The Committee's achievements are largely attributable to the thousands of lawyers from over 100 area law firms who have given generously of their pro bono time and financial contributions. The Committee's record also reflects the skill and dedication of the talented men and women who have served with distinction on its staff and as co-chairs, directors, and trustees.

# Equal Employment Opportunity

## Washington County Dept. of Water Quality Settles Disability Discrimination in Employment Lawsuit

On July 28, 2009, the Committee and co-counsel **Step toe & Johnson LLP** settled a disability discrimination lawsuit filed on January 23, 2008, in Maryland District Court against the Washington County Department of Water Quality on behalf of Plaintiff Tony Davis, who had alleged that he was denied reasonable accommodation and terminated from his employment due to his disability.

Mr. Davis, a veteran Washington County, Maryland, employee, suffers from a cognitive disability caused by a severe on-the-job head trauma suffered in the late 1990s. For years after this injury, he worked successfully for the County's Department of Water Quality.

In 2005, however, his job required that he obtain Maryland state certification and pass a state-administered test. Because of his disability, he requested an accommodation for additional time to take the test. Although the state granted his request for extra time to take the exam, Washington County fired him before he could take the test, finding that he would not likely pass even with the accommodation.

Washington County challenged whether Mr. Davis's impairments qualify as a disability under federal law, contended that it did not know Mr. Davis had a disability (notwithstanding that Mr. Davis was injured on the job and received county disability insurance payments for his injury), and that it was not obligated to assist him with respect to state certification obligations.

After full summary judgment briefing, the parties entered into court-sponsored mediation and were able to fully resolve the litigation on confidential terms to the full satisfaction of all parties. The litigation also caused the County to revise its ADA policies and procedures and to implement an ADA training program for its employees.

## Employee Files Race Discrimination and Retaliation Lawsuit Against Army Inspector General

In July 2009, the Committee and co-counsel **Step toe & Johnson LLP** filed a race discrimination and retaliation lawsuit in the Federal District Court in the Eastern District of Virginia on behalf of Denise Burgess, an African-American woman hired in 2006 by the Army's Office of the Special Inspector General for Iraq Reconstruction ("SIGIR") to serve as the Assistant Special Inspector for Media Affairs.

Ms. Burgess is a Princeton graduate with a career in public service, and by all accounts, her performance at SIGIR was exemplary. At the time of her employment, she was the only African American serving in a senior leadership role at SIGIR.

When a new Deputy Inspector General, Ginger Cruz, was hired in March 2007, however, Ms. Burgess began to experience what she believed was racial

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## Linklater Religious Exemption Issue Proceeds To Maryland Court of Appeals

The Committee's case filed with co-counsel **Shearman and Sterling LLP** on behalf of Mary Linklater, the music director at a local Lutheran church who was sexually harassed by the Pastor and a senior congregant, is headed to the Maryland Court of Appeals on the novel issue of whether the First Amendment limits discrimination lawsuits against religious institutions.

Ms. Linklater was employed at Prince of Peace Lutheran Church in Gaithersburg, Maryland, from 1996 to 2001. From 1997 to 1999, she received outstanding annual performance evaluations. Ms. Linklater alleged that in late 1999 and early 2000, after she complained about sexual harassment she was experiencing, she became the object of severe retaliation and a ruthless campaign to drive her from the church. As

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# Fair Housing



Client Sarah Borbeau in front of The Woodner building.

## AvalonBay, Rock Creek Springs, Post Properties, Home Properties, and Jonathan Woodner Co. Settle Housing Choice Voucher Lawsuits

Over the past several months, the Committee and co-counsel have settled several lawsuits with landlords located in Montgomery County and the District who discriminate against individuals using housing choice vouchers. The Committee settled lawsuits with Avalonbay Communities, Inc. and Avalonbay Traville L.L.C., with the help of co-counsel **Morrison & Foerster LLP**; Rock Creek Springs Holdings LLC, Dreyfuss Brothers Inc., Potomac Springs Ltd. Partnership, with assistance from co-counsel **Covington & Burling LLP**; Home Properties, with the aid of co-counsel **King & Spalding LLP**; and Post Properties, with help from co-counsel **Foley & Lardner LLP**.

In those cases, the Committee and co-counsel contacted Maryland landlords and filed complaints on behalf of the Equal Rights Center (ERC) alleging that the ERC's testers were told that the developments categorically refuse to rent to individuals who use housing choice vouchers, place quotas and steer individuals who use housing choice vouchers, and place different terms and conditions on the rental applications for individuals who use housing choice vouchers. Each of these acts violates the Montgomery County Ordinance which prohibits landlords from discrimination

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## Camden Property Trust, Kettler Management Co. Settle Design and Construction Lawsuits

The Committee and co-counsel have recently achieved major settlements in two design and construction lawsuits brought on behalf of the Equal Rights Center (ERC) against Camden Property Trust and Kettler Management Company. The lawsuits alleged that these national apartment and condominium developers discriminated against people with disabilities in the design and construction of multifamily housing. The settlements collectively will result in more than 7000 retrofitted apartment units that will become accessible to people with disabilities, and both companies agreed to 10-year commitments to a program run by the ERC to provide training and guidance to developers on accessibility issues.

On August 13, 2009, the Committee and co-counsel **Fried, Frank, Harris, Shriver & Jacobson LLP** reached a settlement with Kettler Management Corporation. In a lawsuit filed in the United States District

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## Countrywide Settles Predatory Lending Case

The Committee and co-counsel **Gilbert LLP** have settled a predatory lending case brought on behalf of Ms. Constance Harris Lewis, a 79-year-old D.C. resident, against Countrywide Home Loans, Inc., Residential Lending Corp., and Pinnacle Settlement Services, Inc.

The lawsuit, filed in D.C. Superior Court on September 9, 2008, claimed that Ms. Lewis was a victim of a predatory lending scheme and abusive refinancing practices that jeopardized her home and, in just two years, increased her mortgage debt from \$230,000 to almost \$400,000. The complaint alleged that Ms. Lewis was targeted because of her age and lack of sophistication in financial matters, and induced her to enter into unsuitable loans that did not substantially benefit her in violation of the District of Columbia Consumer Protection Procedures Act, which protects consumers against unfair and deceptive trade practices, and under tort law.

# Disability Rights

## Accessibility Lawsuits Filed Against Two Restaurant Chains and One Local Restaurant

The Committee has filed accessibility lawsuits in U.S. District Court for the District of Columbia against two major restaurant chains, Cusi's and Johnny Rockets, as well as local restaurant Hank's Oyster Bar, claiming they are not accessible for persons with disabilities, and in violation of the Americans with Disabilities Act and the D.C. Human Rights Act.

The lawsuit against Cusi's, filed by the Committee and co-counsel **Foley & Lardner LLP** on June 18, 2009, is based on complaints of individuals and surveys conducted by the Equal Rights Center (ERC) in Washington, D.C., California, Wisconsin, Maryland, New York, New Jersey, and Connecticut.

The Committee and co-counsel **Morrison & Foerster LLP** filed a complaint against the Johnny Rockets restaurant chain on June 18, 2009.

On August 18, 2009, the Committee and co-counsel **Kirkland & Ellis LLP** filed an accessibility lawsuit against local D.C. restaurant Hank's Oyster Bar.

## Disability Discrimination Lawsuit Filed Against Mr. Smith's Bar

On September 9, 2009, the Committee and co-counsel **Venable LLP** filed a lawsuit in the U.S. District Court for the District of Columbia against Mr. Smith's, a restaurant and piano bar located in Georgetown, charging the establishment with discrimination against people with disabilities.

According to the complaint, Taylor Price, a wheelchair user and Georgetown University student, was ordered to leave the bar by one of the managers who said Price was a "fire hazard."

The suit alleges that the bar violated the Americans with Disabilities Act and the D.C. Human Rights Act.



L/R: Jennifer Wolfsheimer, Disability Rights Coordinator, Equal Rights Center; Brian McNamara, Partner, Foley & Lardner LLP; Elaine Gardner, Director, Disability Rights Project, Washington Lawyers' Committee, stand outside of a Cusi's Restaurant.

## Complaint Filed Against Howard University Hospital Family Health Center

On September 25, 2009, the Committee and **Jenner & Block** filed a lawsuit on behalf of the Equal Rights Center and two individuals who use wheelchairs against the Family Health Center, a neighborhood clinic run by Howard University Hospital. The lawsuit alleges that the clinic is inaccessible to people who use wheelchairs, and that it does not have accessible equipment, such as accessible examination tables or scales.

## Fort Washington Hospital Agrees to Provide Sign-Language Interpreter Services

On August 31, 2009, the U.S. Department of Justice settled a complaint the Committee had filed with the agency against Fort Washington Hospital. The complaint had alleged that the hospital failed to provide sign-language interpreter services to a patient who was deaf, and forced his eleven-year-old son to interpret all night. The hospital has now agreed to establish detailed policies and procedures to ensure provision of qualified sign-language interpreter services to deaf individuals, and to ensure that the hospital will not use a patient's family members to interpret.

# Immigrant and Refugee Rights

## Hann & Hann Agrees To Settle Day Laborer Wage Case

After two settlement conferences on May 13 and August 27, 2009, the Committee and co-counsel **Arnold & Porter LLP** reached an agreement in principle with Defendant Hann & Hann, Inc., a Maryland-based construction company that engaged in unlawful practices to deny their employees earned wages.

On May 8, 2008, the Committee and co-counsel filed a class action against the area construction company for engaging in unlawful practices to deny their employees their earned wages. The practices include failing to pay overtime wages, failing to pay wages for compensable time; failing to pay contractual bonuses; unlawfully deducting wages for materials and tools from employee paychecks; and failing to pay for time worked at the company office prior to going to the worksite.

The Defendants have agreed to pay all overtime owed to each employee who worked for the company from May 2006 to May 2008, plus an additional 50% in damages. The Defendants also agreed to reimburse every employee for each and every unauthorized deduction taken from May 2006 to May 2008, plus 50%. In addition, the settlement provides further monetary compensation for the resolution of related claims, and for attorney's fees.

## Committee Volunteers Win Victories For Asylum Seekers

Through the efforts of attorneys from **Foley & Lardner LLP** and **Steptoe & Johnson LLP**, an immigration judge granted asylum to a man from the Central Africa Republic who was detained and tortured because of his family's support of an opposition party and a young girl from Guinea who feared a forced marriage and female circumcision.

At the Arlington Asylum Office, a **Goodwin Proctor LLP** attorney obtained asylum for a young woman from Mali who feared forced female circumcision in her country. **Howrey LLP** attorneys won asylum for an Ethiopian nun assaulted by government officials because of her failure to cooperate with them and her provision of medical assistance to anti-government forces and their sympathizers. **Latham & Watkins LLP** attorneys gained asylum for a former diplomatic official from Central Africa Republic who feared persecution because of his ties to the former president of the country. Attorneys from **Winston & Strawn LLP** obtained asylum for a doctor from Iraq who feared persecution because of her ethnicity and because she is viewed as a modern, westernized woman. An attorney from **Zuckerman Spaeder LLP** gained asylum for a genocide survivor from Rwanda who was targeted because he attempted to bring charges against the people who had been involved in the killing of his family.

## Asylum Training Offered

The annual D.C. Bar political asylum training is scheduled for Friday, November 20, 2009, from 9:00 a.m. – 3:30 p.m. at the new D.C. Bar Conference Center, 1101 K Street, NW, First Floor, Washington, D.C.

The training, which is appropriate for attorneys or paralegals, is co-chaired by the Committee's Immigrant and Refugee Rights Project and several other organizations. There is a \$25 charge which covers the cost of the training manual. Training participants must agree to accept pro bono referrals from one of the sponsoring organizations.

Registration information is available on the D.C. Bar Pro Bono Program website: [www.dccbar.org/pro-bono](http://www.dccbar.org/pro-bono), or by calling (202) 737-4700, ext 3357.

For general information on the training or on asylum cases available for placement, contact Ruth Spivack at the Committee at (202) 319-1000, ext. 120, or at [Ruth\\_Spivack@washlaw.org](mailto:Ruth_Spivack@washlaw.org).



## Public Education

### 2009 GeoPlunge Geography Tournament To Be Held at Smithsonian Museum

The Committee in conjunction with **Arent Fox LLP**, and D.C. Public Schools will host the 5th GeoPlunge Geography Tournament on Friday, November 20, 2009, at the Smithsonian National Museum of American History, located on The Mall in Washington, D.C.

The popular geography tournament is based on the award-winning card game GeoPlunge, created by Arent Fox lawyer Alan Fishel. The card game helps players learn about U.S. geography. The 5th GeoPlunge Tournament will bring together 5th and 6th grade D.C. Public School students in an educational and exciting competition.

The Committee, in cooperation with D.C. Public Schools and Arent Fox, are currently recruiting schools to develop teams. Law firms and businesses are invited to serve as team sponsors.

For more information, please contact Elinor Hart: 202-387-2966; hart1651@juno.com, or the Committee's Executive Director Rod Boggs at (202) 319-1000, ext. 103, or at Rod\_Boggs@washlaw.org.

### D.C. Public Schools Seek Law Firms for Partnerships

Twelve D.C. public schools are seeking law firms to establish new educational partnerships.

The schools are: (1) Anacostia High School; (2) Davis Elementary; (3) Garfield Elementary; (4) Garrison Elementary; (5) Kenilworth Elementary (6) Miner Elementary; (7) Orr Elementary; (8) Powell Elementary; (9) Simon Elementary (10) Shaw/Garnet Patterson Middle School; (11) Truesdell Elementary; and (12) Webb-Wheatley Educational Center.



*J.O. Wilson Elementary School students pose with the 2008 GeoPlunge Tournament Trophy, which they won.*

We are actively trying to pair Kenilworth, Powell, and Webb-Wheatley Elementary Schools.

Currently, the Committee's D.C. Public School Partnerships Project works with over 25 partnerships that pair area firms with D.C. public schools in low-income areas of the city.

Volunteers from participating law firm provide tutoring, mentoring, and other supportive services that benefit thousands of at-risk K-12 D.C. public school students every year.

As a result of the success of these partnerships, many other D.C. public schools are interested in establishing educational partnerships to benefit their students.

For more information, interested firms should contact the Committee's Executive Director Rod Boggs at (202) 319-1000, ext. 103, or at Rod\_Boggs@washlaw.org.

# Prisoners' Project

## Parole Representation Needed (continued from page 1)

In virtually every case prior to *Sellmon*, the USPC had extended the incarceration of D.C. prisoners, insisting that prisoners serve additional years in prison time beyond their minimum sentences, essentially "re-sentencing" them beyond those imposed by the courts. Under the guidelines imposed by the USPC, the importance of rehabilitation and conduct while incarcerated were minimized, focusing instead on seeking retribution for the original offense. This approach left many D.C. prisoners incarcerated for decades longer than they should have been held, with no way to prove that they had improved themselves and to reap the benefits of rehabilitation.

In the months following *Sellmon*, the D.C. Prisoners' Project has recruited and trained dozens of attorneys to ensure that the *Sellmon* holding was utilized to gain D.C. prisoners some measure of justice. The response of the private bar has been outstanding. Since November 2005, participating attorneys from major law firms have handled more than 90 parole hearings, with a success rate of better than 80 percent. In response to this success, and the pressure imposed by the *Sellmon* decision, the USPC has accelerated its schedule of parole hearings for D.C. prisoners. Through January 2010, the USPC has scheduled nearly 600 remedial parole hearings, essentially re-hearing cases it may have wrongly decided over the last several years.

The Project needs to mobilize at least 100 new attorneys to meet this immediate need. Many firms are already committed to take on several cases in particular locations over the coming months, but we need many, many more. The Project has a training video, extensive written materials and sample documents, and can provide technical assistance as requested. Contact D.C. Prisoners' Project Director Philip Fornaci at Philip\_Fornaci@washlaw.org; (202) 319-1000, x121, for more information.

## GEO Group Settles Case Involving Inadequate Medical Care of Prisoner

On August 14, 2009, the Committee's D.C. Prisoners' Project, with co-counsel from **Winston & Strawn LLP**, settled a case involving the inadequate medical care of a prisoner held at the private GEO Group-run Rivers Correctional Institution (RCI) in North Carolina.

In 2007, the Committee and co-counsel from Winston & Strawn entered an appearance in a matter filed *pro se* by a prisoner litigant in state court in North Carolina.

The case involved an assault by another prisoner, and the failure of RCI staff to provide him with medical care for several hours. The RCI staff instead put the assaulted prisoner into segregation.

His federal case had been dismissed based on GEO Group's contention that the GEO Group, which runs RCI under contract with the federal Bureau of Prisons, is not a state actor for *Bivens* purposes.

The Plaintiff subsequently re-filed his case in state court in North Carolina, a forum inhospitable to private plaintiffs generally, and prisoners in particular. Counsel aggressively litigated his case in this forum and reached a monetary settlement for the client. The client was able to pick up his settlement check the day after his release from prison in September 2009.

## D.C. Prisoners' Project Addresses Public Policy Issues

The Committee's D.C. Prisoners' Project and co-counsel continue to address public policy issues involving the implementation of newly enacted parole reform "street time" legislation, and problems with the federal Bureau of Prisons (BOP), where D.C. prisoners are sent after felony convictions or parole revocations.

In 2008, in collaboration with attorneys from **Covington & Burling LLP** and a coalition of legal services organizations, the Project secured passage of important parole reform legislation expanding the rights of D.C. parolees. Specifically, the law prevented the loss of "street time" in the event of a parole revocation and created the possibility of early termination of parole in some circumstances. The law became effective in May 2009, with proposed regulations issued in June. In August, the Project submitted comments to the proposed regulations. Copies of the comments are available from Project staff.

The Project has also been active in advocacy efforts to address problems in the federal BOP, where all D.C. prisoners are sent after felony convictions or parole revocations. Our organization is the only advocacy group that actually focuses on conditions in the federal prison system, with most prisoners' rights organizations focused on state systems.

## An Interview with Edward C. Britton, Parole Representation Counsel

Edward C. Britton, a partner at **Covington & Burling LLP**, served as counsel in the parole representation program of the Committee's D.C. Prisoners' Project. He talked with **UPDATE** staff about his experience working with the Committee on this program.

**Q:** Why did the firm get involved in representing prisoners at parole hearings?

**A:** Covington responded to a Committee request for assistance in representing D.C. offenders in their parole hearings to ensure that D.C. offenders received the benefits of the U.S. District Court's *Sellmon* decision. I was the first Covington lawyer to take one of the cases, but we quickly identified other lawyers at the firm interested in other cases.

**Q:** Has this pro bono effort been popular within the firm?

**A:** Yes. The team of Covington lawyers handling parole hearings for D.C. offenders continues to grow. Initially, the group had one partner and four associates. It has now more than doubled in size and we expect it will expand.

**Q:** Why do inmates need pro bono lawyers at parole hearings?

**A:** Since inmates have no constitutional right to representation with respect to parole proceedings and usually cannot afford legal counsel, volunteer lawyers are the only realistic source of representation for inmates on parole matters. Legal representation can help to ensure that the inmate's case is adjudicated under the appropriate standard, that the appropriate standard is correctly applied by the hearing examiner, and that the inmate's story is fully developed and presented in the parole hearing. Many, if not most, inmates have no idea how to present their cases themselves. Without a lawyer to help them think through the issues and understand what aspects of their situation need to be brought to the attention of the hearing examiner and how that should be done, many will simply lapse into fatalistic silence or engage in unproductive confrontation at their parole hearings. The involvement of a lawyer makes a very tangible and visible difference.

**Q:** Do parole hearings take much time or resources compared with other pro bono matters?

**A:** No. Each case tends to deal with a limited range of legal and factual issues, as long as the lawyer does not handle related habeas actions or other collateral challenges. As a result, lawyers can handle an individual case within approximately 80 hours of work.

**Q:** Is the substantive material difficult to learn?

**A:** Not really. A corpus of regulations needs to be mastered, and creative thought needs to be given to developing and presenting relevant factual material. However, the training materials provided by Committee are excellent and should allow any lawyer to master the relevant legal background quite quickly.

**Q:** Do you recommend that other firms take on this kind of work?

**A:** Yes. These cases offer an ideal opportunity to develop a significant team of lawyers within a firm dedicated to a common project while at the same time affording individual lawyers leeway in the level and timing of their involvement. While the cases involve advocacy, the parole hearings themselves are relatively informal and accordingly lend themselves to involvement by lawyers who may not consider themselves litigators. As a result, the cases offer a great pro bono opportunity for teams of lawyers across traditional law firm practices, and can include lawyers from practice areas, such as regulatory and corporate, that often have fewer opportunities for pro bono work.



Edward C. Britton  
Covington & Burling LLP

## Prisoners' Project Addresses Public Policy Issues (continued from previous page)

As a result, we were asked to provide testimony before the House Judiciary Committee, Subcommittee on Crime, Terrorism, and Homeland Security in July and to provide input to the Office of the Inspector General in its ongoing efforts to investigate problems in the Bureau of Prisons.

We have also worked to focus the attention of the District's non-voting Congressional Delegate, with a series of hearings on D.C.-related BOP issues that began on Tuesday, September 22.

## Public Accommodations

### Committee and Co-Counsel Win Fee Award in Lawsuit Against D.C. Police and FUR Nightclub

On September 16, 2009, Judge John D. Bates of the U.S. District Court for the District of Columbia, awarded \$333,775 in attorney's fees, plus costs, to the Committee and co-counsel **Katten Muchin Rosenman LLP** and **Wilmer Cutler Pickering Hale & Dorr LLP** in a police misconduct lawsuit brought on behalf of a recent immigrant of Arab descent against the D.C. Police Department, off-duty officers, FUR nightclub and its bouncers.

The plaintiff was accosted in March 2005 by a FUR Nightclub bouncer who punched him in the face and broke his nose. The altercation prompted the involvement of four off-duty D.C. police officers, who handcuffed and dragged him from the nightclub, and beat him.

In the jury trial held in April 2008, the plaintiff claimed that the D.C. Police Department, off-duty officers, FUR nightclub and its bouncers discriminated and committed battery against him and violated his Fourth Amendment rights. He was victorious in his battery claims against the bouncer and FUR Nightclub, and on his Section 1983 excessive force claim against one of the off-duty officers. The jury awarded him \$35,000 in damages. Several claims against three of the off-duty officers are still pending and will likely be tried in early 2010.

The results in this case to date will serve to deter law enforcement officials from engaging in such abuses in the future.

### Race Discrimination and Retaliation Lawsuit Against Army IG (continued from page 5)

discrimination and within days of raising concerns about this treatment, she was summarily fired from SIGIR, allegedly because of a "reorganization."

After filing her lawsuit in the Eastern District of Virginia, SIGIR filed an answer and then immediately, prior to any discovery, filed a motion for summary judgment on all counts. Ms. Burgess has filed an opposition to that motion, contending that summary judgment is premature, given that no discovery has occurred, and also that the limited factual record developed in the administrative phase of her charge demonstrates the existence of material factual disputes precluding summary judgment. A hearing on Defendant's motion is currently scheduled for late October.

The Committee and co-counsel Steptoe & Johnson LLP then stepped in and represented Ms. Burgess in the fact-finding conference held by the Army on August 26, 2008. Evidence suggested that SIGIR's "reorganization" defense was pretextual.

### Linklater Religious Exemption Issue Proceeds To MD Court of Appeals (continued from page 5)

a result, she suffered extreme emotional distress. At trial, defendant Lusk denied making sexual advances toward Ms. Linklater, but admitted he had repeatedly urged the Church Council and Mutual Ministry Committee to terminate Ms. Linklater's employment.

The case raised important issues of first impression under Title VII, the First Amendment and Maryland law as to whether religious institutions are immune from liability for discriminatory and tortious acts committed against their employees.

The Committee and co-counsel filed the case in Montgomery County Circuit Court in 2002, and on March 2, 2005, won a \$1.35 million jury verdict against the former pastor and church after a two-and-a-half week trial. The trial court subsequently set aside the verdict, and the Plaintiff appealed the case to the Maryland Court of Special Appeals, which issued a mixed decision in March 2009. The parties filed cross petitions for certiorari, which the Maryland Court of Appeals granted, and are presently briefing the case to the Maryland Court of Appeals. Oral argument is expected to occur in January 2010.

# Arrivals

## New Board Members

The Washington Lawyers' Committee recently welcomed four new members to the Board of Directors. They are: H. Guy Collier and Thomas G. Hentoff.

### H. Guy Collier

Guy Collier is a partner in the Washington, D.C., office of **McDermott Will & Emery LLP**. As a member of the Health Law Department, Guy focuses on transactional and related regulatory issues for health industry clients. He serves as Chairman of the Firmwide Pro Bono and Community Service Committee, Chair of the D.C. Bar Pro Bono Committee and past Chair of its Clinics Subcommittee and Senior Lawyer Public Interest Project. He received his B.A. from the University of Virginia, J.D. from University of Richmond School of Law, and M.P.H. from Johns Hopkins University.

### Thomas G. Hentoff

Tom Hentoff is a partner in the Washington, D.C., office of **Williams & Connolly LLP**. His practice is concentrated in three areas: First Amendment and media law, intellectual property disputes, and complex civil litigation. He is chair of the firm's Pro Bono Committee. He received his B.A. from Wesleyan University and his J.D. from Columbia Law School.

## New Staff

### Laura Mancini

Laura Mancini, a visiting associate from **Latham & Watkins LLP**, recently began a one-year assignment with the Committee's Disability Rights Project. Laura is a graduate of American University's Washington College of Law, where she was the founder and president of the Disability Law Society, and worked on projects with leading disability rights attorneys. Laura received her A.B. degree from Harvard University.

### Rosanna Neil

Rosanna Neil, a visiting associate from **Dewey & LeBoeuf LLP**, recently began a one-year assignment with the Committee's Immigrant and Refugee Rights Project. She is a graduate of Harvard Law School, where she participated in the Harvard Immigration and Refugee Clinic at Greater Boston, the International Human Rights Clinic in Johannesburg, South Africa, and the Public Interest Advocacy Centre in Sydney, Australia. Rosanna received her undergraduate degree from Howard University.

### Adam Sparks

Adam Sparks, a visiting associate from **Goodwin Procter LLP**, began a one-year assignment with the Committee, working with both the Equal Employment Opportunity Project and the Public Education Project. He is a graduate of Columbia Law School and the University of Georgia.

## Housing Choice Voucher Lawsuits Settle (continued from page 6)

against prospective tenants based on their source of income, including housing choice vouchers.

The Committee also settled litigation against The Jonathan Woodner Co., with assistance from **K&L Gates LLP**. The Committee represented the ERC and an individual who had been denied the opportunity to use a voucher to subsidize her rent. On June 16, 2009, the parties reached a settlement agreement that included \$200,000 in monetary relief, and an agreement that the Woodner company would not discriminate against people who use vouchers in its 450 apartments in the District of Columbia.

These settlements also require the landlords to ensure that nearly 7,000 apartment units are now open to families who use Housing Choice Vouchers, and collectively include nearly \$400,000 in total monetary relief.

## Design and Construction Lawsuits Settle (continued from page 6)

Court for the District of Columbia on June 6, 2007, the ERC had alleged that Kettler discriminated against people with disabilities at its apartment complexes. The settlement agreement includes \$525,000.00 in monetary relief, attorney's fees and costs; and remedial alterations in at least 975 apartment units.

On September 14, 2009, the Committee and counsel **Gilbert LLP** and **Kirkland & Ellis LLP**, reached a settlement with Camden Property Trust. In the lawsuit, filed in the U.S. District Court for the District of Maryland on September 6, 2007, the ERC had alleged that Camden discriminated against people with disabilities at its apartment complexes nationwide. The settlement includes \$750,000.00 in monetary relief, attorney's fees and costs; and alterations in approximately 6500 apartment units.

## WASHINGTON LAWYERS' COMMITTEE 2009 Branton Awards Luncheon (continued from page 1)



L/R: U.S. Attorney General Eric Holder with 2009 Vincent Reed Award recipient Iris Toyer.

"I would also like to thank the Lawyers' Committee for its continuing work to address the issues of discrimination and poverty that are prevalent in too many of our nation's most vulnerable communities. The Justice Department has had occasion to work with the Lawyers' Committee on these issues," he noted, adding, "I look forward to continuing that history of collaboration during my tenure as Attorney General."

At the luncheon, former Committee Co-Chair Benjamin F. Wilson, Managing Principal of **Beveridge & Diamond, P.C.**, and Congressman John Lewis (D-Ga.), jointly received the 2009 Wiley Branton Award for Lifetime Achievement in recognition of their many years of public service and civil rights advocacy. David J. Cynamon, a former Committee Co-Chair and partner at **Pillsbury Winthrop Shaw Pittman LLP**, presented the award to Ben Wilson. Congressman John Lewis accepted the award in absentia.

Kim M. Keenan, President-Elect of the D.C. Bar and an Equal Rights Center (ERC) board member, presented the 2009 Alfred McKenzie Award to fellow ERC board members James O. Gibson and Monsignor Ralph Kuehner. The award is given to a Committee client for dedication and courage that have produced significant civil rights victories. The Committee has represented the ERC in numerous civil rights cases.

Committee Executive Director Rod Boggs presented the 2009 Vincent E. Reed Award to Mary M. Levy, Director of the Committee's Public

Education Reform Project, and Iris Toyer, Director of the Committee's D.C. Public School Partnerships Project. They received the award jointly for their nearly 30 years of dedication and commitment to efforts to guarantee a quality education for children attending D.C. public schools.

The Committee also recognized 23 law firms with Outstanding Achievement Awards for their exceptional work on Committee pro bono matters in the past year. For a list of the law firm awardees and their achievements, see page 15.

Benjamin F. Wilson's stellar legal career includes private practice at King and Spalding, and several years of government service at the U.S. Department of Justice, Civil Division, before he joined Beveridge and Diamond, P.C. as a partner in 1985, where he now serves as Managing Principal. He joined the Washington Lawyers' Committee board of directors in 1993, serving two terms as Co-Chair and serving as co-counsel on several key Committee cases. He also took the lead in establishing an innovative educational partnership between his firm and Birney Elementary School in Washington, D.C. Born in Jackson, Mississippi, he is a graduate of Dartmouth College and Harvard Law School.

Congressman John Lewis, born the son of sharecroppers, outside of Troy, Alabama in 1940, attended segregated schools before entering Fisk University. As a student, he organized sit-in demonstrations at segregated lunch counters and participated in the Freedom Rides challenging segregated bus terminals in the South. He served as chairman of the Student Nonviolent Coordinating Committee (SNCC), playing a leading role in organizing the historic March on Washington in August 1963, an event at which he was the youngest speaker. He also coordinated SNCC's voter registration efforts in Mississippi and elsewhere that hastened passage of the Voting Rights Act of 1965. Congressman Lewis was elected to the Atlanta City Council in 1981 and to Congress in 1986.

In a videotaped statement, Congressman Lewis said: "[T]o receive an award named for Wiley Branton is almost too much. I often think if it had not been for the lawyers, a lawyer like Wiley Branton...if it had not been for organizations like the Lawyers' Committee for Civil Rights, where would we be as a nation? Where would we be as a people?"

James O. Gibson, a civil rights advocate, foundation leader and urban policy expert, born in Atlanta, Georgia, in 1934, grew up as a neighbor of Martin Luther King, Jr. A graduate of Duquesne University, he began a career as a civil rights advocate as a Student Movement leader and Secretary of the Atlanta NAACP. He later worked on civil rights enforcement policies in federal contracting, fair employment, and urban planning in Washington, D.C., was named President of the Eugene and Agnes E. Meyer Foundation, and later directed Rockefeller Foundation's Equal Opportunity Program, supporting major civil rights program grants. He is a founding member of the Fair Employment Council, which merged with the Fair Housing and Disability Rights Councils to create the Equal Rights Center, where he serves as a board member.

Monsignor Ralph Kuehner, born the son of a carpenter who worked in the mines in Scranton, Pennsylvania in 1924, taught biblical studies in seminary, and was assigned as a parish priest and director of adult education for the diocese of Washington, D.C., before being appointed Director of the Archdiocese's Office of Social Development. He helped found the nonprofit So Others May Eat (SOME) that provides food and housing to thousands of the poor and homeless; and Victory Housing, which renovates and constructs assisted housing for low-income seniors. He was also a founder of the Fair Housing Council of Greater Washington, which merged with the Fair Employment and Disability Rights Councils to form the Equal Rights Center.

(Continued on page 15)

## 2009 Branton Awards Luncheon



L/R: 2009 McKenzie Award recipient James Gibson with 2009 Vincent Reed Award recipient Mary Levy.



L/R: 2009 Branton Award honoree Benjamin F. Wilson, Managing Principal, Beveridge & Diamond P.C.; with Denise Vanison, Washington Lawyers' Committee Co-Chair, and Partner, Patton Boggs LLP.

## 2009 Branton Awards Luncheon

(continued from page 14)

The Committee's annual Branton Awards Luncheon is named for Wiley A. Branton, Sr., a civil rights lawyer of the 1950's who served with distinction in government, as Dean of Howard Law School, and as a leader in several civil rights organizations. He served as a Co-Chair of the Washington Lawyers' Committee in 1987 and 1988.

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## 2009

### Outstanding Achievement Awards

At the 2009 Branton Awards Luncheon, the Washington Lawyers' Committee recognized the following 23 law firms with Outstanding Achievement Awards for their exceptional work on Committee pro bono matters in the past year.

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